

Sentence Review Division
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SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,)	Cause No. DJ-09-118
)	
Plaintiff,)	Missoula County District Court
)	Montana Fourth Judicial District
-vs-)	
)	DECISION
MAXWELL LEE FAULKNER,)	
)	
Defendant.)	

On May 10, 2019, for violations of the terms and conditions of his previous Judgment, the Court revoked the Defendant's suspended sentence and sentenced the Defendant as follows: for Count I: Theft, ten (10) years at the Montana State Prison; for Count II: Criminal Mischief, two (2) years at the Montana State Prison, all suspended; and for Count III: Criminal Endangerment, three (3) years at the Montana State Prison, all suspended. The Court recommended placement at Nexus. All of the counts were ordered to run consecutively to each other and consecutively to the sentence imposed in Cascade County, Cause No. DC 18-323. The Court ordered restitution in the amount of \$194,071.50. The Defendant received credit for time served of 144 days.

On November 8, 2019, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant was present and was represented by John Ferguson, Defense Counsel. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

It is the unanimous decision of the Division that the Defendant's sentence is clearly excessive and should be modified. The sentence as imposed works contrary to the Court's stated intent that the Defendant receive treatment. Accordingly, the Division **DECREASES** the sentence for **Count I: Theft, a felony, to five (5) years to the Department of Corrections, none of which is suspended, with a recommendation by this Division that he receive treatment at the NEXUS treatment facility.** Counts II and III remain unchanged: Count II: two (2) years at the Montana State Prison, all suspended, for the offense of Criminal Mischief, a felony; and Count III: three (3) years at the Montana State Prison, all suspended, for the offense of Criminal Endangerment, a felony. Counts I, II and III shall run consecutively to each other and consecutively to the sentence imposed in Cascade County, Cause No. DC-18-323. The remaining terms and conditions of the sentence shall remain as imposed in the May 10, 2019 Judgment.

Done in open Court this 8th day of November, 2019.

DATED this 11th day of December, 2019.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



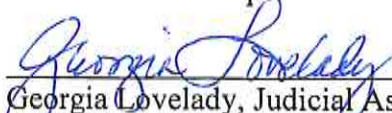
Hon. Dan Wilson, Member



Hon. Luke Berger, Member

Copies mailed this 13th day
of December, 2019, to:

Clerk of District Court (Original)
Maxwell Lee Faulkner #3007650, Defendant (2)
Hon. John Larson
John J. Ferguson, Ferguson Law Office, PLLC, P.O. Box 8359, Missoula, MT 59807
Jennifer Clark, Missoula Co. Attorney's Office
Board of Pardons and Parole
MSP - Records Dept.



Georgia Lovelady, Judicial Assistant
Sentence Review Division